

## ADDITIONAL VIEWS

The 1998 Executive Order on Coral Reef Protection (E.O. 13089) represented a formal response to the precarious state of U.S. coral reef resources. It established the U.S. Coral Reef Task Force and required agencies to examine their actions regarding coral reefs. With great foresight, in that same year, Congress sought to develop programs that attended to local/regional needs with an emphasis on good science being translated into practical management: thus through the Commerce, Justice, State appropriation bill, Congress provided funding for the Hawaii Coral Reef Initiative (HCRI), National Coral Reef Institute (NCRI), and the Caribbean Coral Reef Institute (CCRI).

Since 1998 the three institutes have been provided funding by Congress through annual appropriations contained in the CJS bill. The FY 2006 conference report provided \$1.5 million for HCRI, \$1 million for NCRI, and \$500 thousand for CCRI. The institutes operate through 3-year cooperative agreements with NOAA, through CSCOR. These agreements and the proposed research activities they contain, are subject to rigorous, external peer-review. However, funding is provided only on an annual basis, which makes continuity problematic and predictability and long-term planning difficult to impossible. In FY07, specific funding for the institutes was not appropriated by Congress. The Institutes were forced to interrupt existing cooperative agreements and programmatic activities, submit for NOAA funds under a Broad Area Announcement, and adapt to a 40% reduction in expected funding.

From the beginning, the three institutes have been linked, from their establishment by Congress, to their common approach of sponsoring management-driven research, tapping the complete research potential of agencies and academia, to their emphasis on, and flexibility to, tackle local/regional problems. The specializations, knowledge, and technologies of each program are routinely shared, creating a whole that is greater than the sum of the individual programs alone.

Collectively, these institutes represent not only those areas of the United States that have the primary amount of coral reef resources for the nation, but also those areas where coral reefs are under the most severe anthropogenic threats. In this regard, no region is seen as having priority over another. While each institute addresses complementary local programs and priorities that constitute the "on the ground" realities facing management agencies, and that these efforts are tailored for the socio-economic and governance systems within each area, all of these efforts fall within a larger context of shared local and national priorities. As such, the Institutes also conduct coordinated activities both on their own initiative and under CSCOR direction.

In short, the institutes are separate to better tailor their programs to their local needs and conditions, but function often as a unit at higher levels, especially with their relationship to NOAA and their efforts to inform Congress of the status of U.S. coral reefs, with emphasis on the local perspective. Their individual and combined output has enhanced national capacity and productivity. By concentrating on important and unique management and policy challenges, scientific contributions are made that better allow decisions on both local and national scales.

The three institutes work with a common goal of enhancing management effectiveness through outstanding science activities that include management-driven research, outreach, education, and conservation. On the one hand, tackling the problems facing coral reefs requires local action and efforts that must be flexible enough to attend to the key priorities in each area. These are likely to be different, based on real biological differences as well as differences in the sources and levels of anthropogenic stress and the socio-economic and governance regimes within which management must operate. Key problems and program developments are likely to differ among areas. For example, HCRI faces an invasion of alien species and over growing reefs and excels at education and outreach; NCRI addresses problems resulting from high human populations adjacent to reefs and excels at technological development, focusing on assessment, monitoring, and restoration research; and CCRI confronts an onslaught of coral diseases and has excelled in addressing the human dimension and governance. On the other hand, all institutes deal with these threats and approaches in varying degrees, as well as with additional problems common to all regions. By learning from the experiences of the other programs, each institute benefits from the expertise developed across all institutes.

Together the three institutes create a synergy of productivity that results from collaboration, cooperation, and shared common goals. To promote and sustain this synergy, institute directors meet annually with CSCOR to share experiences, suggest avenues toward problem solving, and develop common strategies for promoting science-based management. Additionally, the institutes initiate joint activities to communicate their research successes and management products at national forums.

While the Act authorizes support for the Coral Reef Institutes, subject to the availability of appropriations, guaranteed funding would duly recognize the important and vital role the institutes have grown to fill within the U.S. coral reef program. Guaranteed appropriations will change the way the three institutes are funded by providing a more predictable and secure mechanism. Properly authorized, the institutes will operate within the annual appropriations process and not via congressionally directed funding. A secure mechanism toward funding would allow the institutes to engage in a level of long-term planning and program development not possible under current funding mechanisms. It would also avoid the kind of program disruption caused by the FY07 funding process.

Importantly, authorization will afford NOAA greater participation in long-term planning, existing cooperative work, and goal-setting that should enhance organization and ultimately better under-

standing and stewardship of the nation's precious coral reef resources.

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The Coral Reef Conservation Act of 2000 (Act) has been a very popular and beneficial statute which: required the National Oceanic and Atmospheric Administration (NOAA) to develop a national coral reef conservation strategy; created a coral reef conservation program within the Federal government through which the Federal government could provide much needed grants for on-the-ground local coral reef conservation projects; created a coral reef conservation fund to allow outside organizations to collect funds in addition to those provided through Congressional appropriations; authorized a national program to provide mapping, research, and education functions; and supported activities of the U.S. Coral Reef Task Force which was established by Executive Order.

These provisions from the original law provided funds for local governments to identify threats to coral reefs and to identify local priorities through the Local Action Strategies as well as other beneficial activities. This Act has proven to be both popular and beneficial to coral reefs.

While the Act's underlying statute is non-controversial, new provisions have been suggested to expand the authorities of the Federal government—including expansion of the emergency assistance provision to allow the Federal government to take immediate action to deal with specific threats to coral reefs such as examples of ships running aground on coral reefs and the ship owners denying responsibility or merely abandoning the ship. Again, this is a worthwhile and non-controversial suggestion.

In addition, it was suggested that the Department of the Interior (DOI) could provide additional benefits to coral reefs if their role were expanded in the statute. Because they have a track record with the Insular Areas and their coral reef conservation efforts, this also seemed a laudable suggestion. In addition, the DOI grant procedure seemed to be able to get grant money to the intended recipients faster than NOAA could.

Concern has been raised that DOI might use this additional authority to expand their jurisdiction into marine areas where they do not have the expertise or existing authority. NOAA has traditionally had the primary expertise and authority for the regulation of activities in the marine environment. While giving DOI additional authority to enhance coral reef conservation is a benefit to coral reefs, this action should not be viewed as giving DOI additional authorities in the marine environment other than in the limited case of assisting in coral reef conservation activities under this statute. DOI has argued that they have provided coral reef conservation funding through existing authorities so Members do not expect this legislation to allow DOI to create new offices or expand their bureaucracy due to provisions in this legislation. Concern has been raised that this new authority will allow the Department of

the Interior to create a new bureaucracy when they have only requested the ability to fund coral reef initiatives that they currently participate in.

A second concern is that some suggestions for amending the existing statute would take a popular grant program and authority for NOAA to contribute to coral reef conservation and turn it into a regulatory statute with new regulatory authorities that could give NOAA huge new powers to regulate on-land activities which might have only an indirect effect on coral reefs.

Additional regulatory authorities combined with suggestions for vague definitions and/or vague regulatory authorities could turn this popular coral reef conservation program into another Endangered Species Act complete with train-wrecks for federally permitted activities which a court might determine have an indirect impact on coral reef conservation or other activities which have no direct bearing on coral reef health. It appears that some outside groups might be trying to turn this Act into a litigation lightning rod and to use coral reef conservation as a way of regulating other activities both on land and offshore. It has been suggested that there was an attempt to use the coral reef ecosystem definition to turn this non-controversial legislation into a key tool to be used by litigious environmental groups to try to litigate against indirect human activities that could possibly affect coral reefs. If that is the case, Members need to take note. This will no longer be a statute that only does good things for corals and for those states and territories that have coral reefs. It will now be a litigant's dream for going after activities far removed from any shoreline. While presumably not the intention of the authors of the legislation, this is a very possible unintended outcome of innocent-seeming language.

Finally, language currently in the bill, although well intentioned—to give DOI the authority it needs to participate in coral reef conservation activities—may also have unintended consequences. To allow DOI to use authorities in existing statutes to provide additional benefits for coral reef conservation is a worthwhile notion; however, to accomplish this authorization, drafting assistance was provided which expanded the definition of “wildlife” in several statutes to include coral reefs. The unintended consequences of this expansion of the term “wildlife” are hard to determine at this point. Care should be taken to minimize these unintended consequences.

Again, this Act has been a very popular program that provided grants to further coral reef research, conservation, and restoration. Reauthorization of this Act with the addition of some specific additions to address emergency and unanticipated impacts to coral reefs such as ship strikes are to be applauded. The legislation adopted by the Committee was adopted by voice vote, but only after some of the concerns about vague definitions—especially that of “coral reef ecosystem” were negotiated. Concerns remain on the unintended consequences of well intentioned provisions and concerns also remain that changes in the definitions included in the reported bill may be changed prior to Floor action. Expansion of these definitions could turn a very popular Act into a regulatory and litigation nightmare which will not help coral reef conservation efforts.

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